IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 2766 of 2002

Between:

P.Sarojana W/o.Yellaiah, 34 years,
New Raipura, Hanamkonda
Warangal Dist

..... PETITIONER

AND

1 The District and Sessions Judge Warangal.
2 High Court of Andhra Pradesh (Admn) rep.by its Registrar
Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or order or direction more pa4rticularly one in the nature of writ of Mandamus declaring the order of the 1st respondent issued in proceedings No.DC-WGL/AW-E.5 Dis.No.4776, Dt.13/09/2000 as confirmed by the 2nd respondent in order Roc.No.1081/2001-D1(5) Dt.14/8/2001 as illegal arbitrary and in violation of provisions of Articles 14,16 and 21 of the Constitution of India and issue a consequential direction to forthwith reinstate the petitioner into service with all consequential benefits and pass such other order or orders as are deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR. D.V.SITARAMAMURTHY

Counsel for the Respondents : SMT.M.BHASKARA LAKSHMI (SC FOR APHC)

The Court made the following :

THE HON'BLE SHRI DEVINDER GUPTA,

THE CHIEF JUSTICE

AND

HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.2766 OF 2002

ORDER : (Per G.Rohini,J)

This writ petition is filed seeking a declaration that the order of the District & Sessions Judge, Warangal dated 13-09-2000 terminating the services of the petitioner as confirmed on Appeal is arbitrary and illegal.

The case of the petitioner is as follows :

The petitioner was appointed as Part-time Masalchi in the Court of IV Additional Munsif Magistrate, Warangal on 21-11-1992 by the District & Sessions Judge, Warangal on consolidated wages. The appointment was initially for a period of 89 days, however by virtue of the subsequent orders issued from time to time, she was continued as Part-time Masalchi and ultimately by order dated 12-07-2000 issued by the District & Sessions Judge, Warangal, she was temporarily appointed as Full Time Masalchi and was posted in the Court of the Principal Junior Civil Judge, Warangal. On 21-07-2000 the petitioner was served with an official memorandum issued by the Principal Junior Civil Judge, Warangal stating that it has come to his notice that the petitioner was not cleaning the Record Room of the Office in spite of requests made by L.D.C. of the Record room and the Chief Ministerial Officer and

that she was sending her aged mother and younger sister to attend the duties and calling upon her to explain as to why action should not be initiated against her for dereliction of duties. The petitioner submitted her explanation dated 22-07-2000 stating that the Record Room was being opened by the concerned clerk only after 10.00 a.m. and that since she was assigned other duties after 10.00 a.m. she was not in a position to sweep the Record Room. She also stated that whenever she was ill she was sending her mother and her younger sister to attend the duties so that the work would not suffer. No orders were passed thereon, however she was again served with a memo dated 07-08-2000 issued by the Principal Junior Civil Judge, Warangal stating that she did not attend to the duties assigned to her on 05-08-2000 without taking prior permission thereby causing inconvenience to the office staff and calling upon to submit her explanation within a period of 3 days. The petitioner submitted her explanation stating that she could not attend the duty on 05-08-2000 due to severe Stomach ache and that her absence was not intentional. Thereafter, the District & Sessions Judge, Warangal issued a show-cause notice, dated 11-08-2000 wherein it was stated that a complaint was received from the Principal Junior Civil Judge, Warangal with regard to her adamant attitude and usage of vulgar language against the other members of staff and that she failed to attend the duties properly. It was also stated that similar complaints were received earlier from IV Additional Judicial First Class Magistrate, Warangal and also from the staff of Nazarath and other staff members and therefore it is not desirable to allow her to continue in service and accordingly she was called upon to submit her explanation as to why she should not be removed from service forthwith for her misconduct. She was also served with a separate order dated 11-08-2000 under which she was transferred and posted to the Court of Junior Civil Judge, Jangaon. The petitioner having reported to duty at Jangaon, submitted her explanation dated 22-08-2000 to the District & Sessions Judge, Warangal denying all the allegations made in the show-cause notice, dated 11-08-2000.

While so, the District & Sessions Judge, Warangal passed another order dated 30-08-2000 stating that a fresh complaint dated 19-08-2000 had been received from the Junior Civil Judge, Jangaon stating that the petitioner intentionally attends to the domestic work in haphazard manner and always tries to evade the office duties. It was further stated that he also received reports alleging that the

petitioner is notorious and cantankerous woman with loose morals and that she always tries to defy the Presiding Officers and abuses the judicial officers which depicts the rash and irresponsible behaviour of the petitioner and therefore she was called upon to submit her explanation for her indecent, rash and irresponsible behaviour. The petitioner submitted her explanation dated 12-09-2000 denying all the allegations and stating that the imputations affecting her morals and character are unwarranted and baseless. The District & Sessions Judge, Warangal having considered the said explanation by order dated 13-09-2000 terminated the services of the petitioner holding that the complaints of Principal Junior Civil Judge, Warangal and the Junior Civil Judge, Jangaon and earlier reports of IV Additional Judicial First Class Magistrate, Warangal clearly establish that the petitioner was adamant, rash, disobedient and mentally disordered and of loose talk and morals and further she failed to attend to her official duties as per rules, thereby causing much inconvenience for the smooth functioning of the Court and that there is no change in her behaviour in spite of the fact that she was cautioned. Being aggrieved by the same, the petitioner preferred an Appeal which was considered by the High Court on administrative side and by order dated 14-08-2001 the same was dismissed.

Now, this writ petition is filed challenging the aforesaid proceedings terminating the services of the petitioner.

The first respondent filed a counter-affidavit stating that the appointment of the petitioner as Full-time Masalchi was purely temporary. It is further stated that on the basis of the confidential letters received from the Principal Junior Civil Judge, Warangal and Junior Civil Judge, Jangaon complaining that the petitioner was not attending to her duties properly and that she always abuses the other staff members and uses vulgar language and causing much inconvenience to the Court-work, the petitioner was issued a notice on 30-08-2000 calling upon her to explain the said allegations. The petitioner submitted her explanation dated 12-09-2000 and thereafter the matter was discussed on 13-09-2000 in the Committee comprising of the District Judge, I-Addl. District Judge, II-Addl. District Judge and III-Addl. District Judge of Warangal and on a perusal of the entire material on record, it was unanimously resolved to terminate the services of the petitioner. In pursuance thereof, the impugned order dated 13-09-2000 was issued. It was pleaded that the

petitioner was afforded due opportunity to rebut the allegations and that there was no need for conducting any further enquiry.

We have heard the learned Counsel for both the parties and perused the material on record.

The learned Counsel for the petitioner contended that the termination of the services of the petitioner after she has put in 8 long years of service by casting aspersions on her conduct and character and particularly labeling her as a person suffering from mental disorder is arbitrary and illegal. It is contended that several allegations made against the morals of the petitioner which cast serious stigma against the petitioner apart from being without any basis are uncharitable and unwarranted. It is further contended that all the allegations made against the petitioner are false and baseless and at any rate the same are vague and unspecific and lacking in material particulars and the respondents are not justified in imposing the extreme penalty of removal on such allegations without conducting any enquiry. The learned Counsel for the petitioner has also vehemently contended that a reading of show-cause notice dated 30-08-2000 clearly establishes that the disciplinary authority has predetermined the issue and therefore the entire proceedings are vitiated and liable to be set aside.

The learned Standing Counsel appearing for the respondents submits that the record discloses that the petitioner was never diligent in discharging her duties and that in spite of the fact that she was cautioned several times she did not mend her ways and therefore the impugned order or removal is justified and the interference of this Court is not warranted.

On a perusal of the record placed before us and in the light of the submissions made by the learned Counsel for the parties it is to be noted that the petitioner was initially appointed as a Part-time Masalchi, and worked as such in the Courts of Junior Civil Judge, at Warangal and Jangaon. Identical complaints were received from the Presiding Officers of both the said Courts stating that the petitioner who was

supposed to attend the duties of cleaning the Court premises failed to do so on many occasions and that she was adamant and rash in her behaviour and always in the habit of defying the presiding officers. The allegations also include that she abuses judicial officers in vulgar language. Such allegations have been received even from the members of the staff of the respective Courts. The first respondent who was the Head of the Unit states that she failed to mend her ways in spite of the fact that she was cautioned time and again to be careful in discharging her duties. Undoubtedly, such behaviour on the part of an employee amounts to misconduct and insubordination. The allegations were made known to her and due opportunity was afforded to her to submit her explanation. Having considered the explanation, the first respondent arrived at a conclusion that it is not desirable to allow the petitioner to continue in service and accordingly the impugned order was passed terminating her services. May be that the 1st respondent is not justified in observing that the petitioner was mentally disordered and of loose talk and morals, but having regard to the material available on record we are unable to hold that the conclusion of the 1st respondent - District & Sessions Judge, Warangal that the services of the petitioner shall be terminated suffers from any infirmity. The serious complaints received from the judicial officers wherever she worked make it clear that the behaviour of the petitioner was resulting in much inconvenience for the smooth functioning of the Courts. Such irresponsible behaviour and indiscipline on the part of the employees cannot be tolerated and therefore we are of the view that the termination of services as ordered by the respondents is justified.

It is relevant to note that the petitioner was initially appointed as a Part-time Masalchi on consolidated pay. It is true that subsequently she was appointed as a Full-time Masalchi against a vacancy, however, admittedly, her services have not been regularized and by the date of the impugned order she was only continuing as a contingent employee. Since her appointment as Full Time Masalchi was not against a sanctioned post prescribed under the service rules, the contention of the petitioner that the penalty of removal without conducting an enquiry as prescribed under the A.P. Civil Services (Classification, Control & Appeal) Rules, is illegal cannot be accepted. The petitioner was afforded due opportunity to rebut the allegations made against her and the impugned order was passed only after

considering her explanation. Hence, the impugned action cannot be held to be contrary to statutory provisions or in violation of the fundamental principles of natural justice.

However, we make it clear that the observations made by the 1st respondent - District & Sessions Judge, Warangal in his proceedings dated 30-08-2000 and 13-09-2000 that the petitioner is a woman with loose morals and that she is mentally disordered shall stand expunged and it should be taken that the impugned order of termination is only on the ground of misconduct and insubordination.

Subject to the above observation, the Writ Petition is dismissed. No costs.

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(DEVINDER GUPTA, CJ)

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(G.ROHINI, J)

Dt.08–10-2004.

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To

1 The District and Sessions Judge Warangal.
2 The Registrar (Admn.), High Court of Andhra Pradesh, Hyderabad.

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